

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO <i>ex rel.</i>	)	
STATE ENGINEER, <i>et al.</i> ,	)	69cv07896 BB (ACE)
	)	Rio Pueblo de Taos Adjudication
Plaintiffs,	)	
v.	)	69cv7939 BB (ACE)
	)	Rio Hondo Adjudication
EDUARDO ABEYTA, <i>et al.</i> ,	)	(Consolidated)
And CELSO ARELLANO, <i>et al.</i> ,	)	
	)	Rio Pueblo de Taos Section
Defendants.	)	Pacheco Community Ditch
	)	Acequia de los Lovatos
	)	Spring Ditch

**CONSENT ORDER ADJUDICATING ADDITIONAL  
SOURCES OF WATER  
AND AMENDING HYDROGRAPHIC SURVEY**

This Matter is before the Court on the June 10, 2005, Statements of Claim to Springs (Nos. 4624, 4622, and 4634) ("Statements of Claim") filed respectively by:

SPRING DITCH

ACEQUIA de los LOVATOS, and

PACHECO COMMUNITY DITCH

("Spring Ditch," "Lovatos Acequia," "Pacheco Acequia," and collectively, "Acequias").<sup>1</sup> The parties agree and the Court FINDS as follows:

1. The Court has jurisdiction over the State of New Mexico *ex rel.* State Engineer ("State"), the Spring Ditch, the Lovatos Acequia, and the Pacheco Acequia.
2. This Consent Order fully and finally resolves the Statements of Claim made by the

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<sup>1</sup> The governing body of the Spring Ditch is referred to as the Spring Ditch, the governing body of the Acequia de los Lovatos is referred to as the Lovatos Acequia, and the governing body of the Pacheco Community Ditch is referred to as the Pacheco Acequia (collectively, the "Acequias.") The physical ditches are referred to as the "Spring ditch," "Lovatos ditch," and the "Pacheco ditch."

Spring Ditch, Lovatos Acequia, and Pacheco Acequia.

3. The parties agree that Exhibit 1 to this Consent Order correctly depicts the location of the additional sources of water described in this Consent Order.

4. The Spring Ditch diverts water for the benefit of its parciantes (individual acequia members) directly from the Spring Ditch Spring which is identified as "S-1" on the attached Exhibit 1. The Spring Ditch Spring (S-1) is situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 698,712, and Y = 1,967,515.

5. In addition, the Spring Ditch diverts water for the benefit of its parciantes from the Las Crucitas Arroyo which is shown on the attached Exhibit 1. The point of diversion ("POD") from the Las Crucitas Arroyo has not previously been adjudicated, and therefore, a purpose of this Consent Order is to adjudicate the Las Crucitas Arroyo as an additional source of water to the Spring Ditch and identify the POD for this additional source. An unnamed spring, shown on the attached Exhibit 1, flows in an unnamed ditch into the Las Crucitas Arroyo, and is tributary to the Las Crucitas Arroyo upstream of the Spring Ditch's POD. This unnamed spring is situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 699,353, and Y = 1,967,025.

6. The Spring Ditch Spring (S-1) and the Las Crucitas Arroyo and the springs identified below as L-1, L-2, L-3, and L-4 are the correct and only sources of water for the Spring Ditch. Exhibit 2 identifies all subfile orders associated with the Spring Ditch. The subfile orders for the Spring Ditch identify the source of water and point of diversion ("POD") as a single spring, and specifically state that the Spring Ditch "diverts from a spring located in Tract 468, Map 18, Survey 2, Taos County Tax Assessment Survey, within the Taos Pueblo Grant. The position of this diversion on the New Mexico Coordinate System, Central zone, is X =

698,500 and Y= 1,967,400." The purpose of this Consent Order, therefore, is to correct the description of the source of water and POD in the Spring Ditch subfile orders by identifying the originally adjudicated Spring Ditch Spring (S-1), Springs L-1, L-2, L-3, L-4, and the Las Crucitas Arroyo as the sources of water, and describing their correct locations.

7. As depicted on Exhibit 1, the Spring ditch drains into the Lovatos ditch, such that any water from any source that the Spring Ditch lawfully diverts or otherwise lawfully receives for the benefit of its parciantes, but that is not fully consumed by them, will naturally flow into the Lovatos ditch. Such water is referred to herein as "Surplus Water."

8. When flowing, the following springs and spring areas, depicted on Exhibit 1 as "L-1" through "L-4", drain directly into the Spring ditch:

a. L-1: situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 697,263 and Y = 1,967,220;

b. L-2: situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 697,174 and Y = 1,967,162;

c. L-3: situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 696,070 and Y = 1,967,166;

d. L-4: situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 696,007 and Y = 1,967,146.

L-1 through L-4 are referred to collectively as the "Ojitos de Hatchery."

9. Surplus Water from the Spring ditch, including Surplus Water originating from the Spring Ditch Spring (S-1), the Las Crucitas Arroyo, and the Ojitos de Hatchery (L-1 through L-4), is an additional source of water for the Lovatos Acequia.

10. When flowing, the following spring area, depicted on Exhibit 1 as "L-5," is an additional source of water for the Lovatos Acequia:

L-5: situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X= 695,090 and Y = 1,966,712.

L-5 is known as the "Ojitos de la Posta." This spring area is located in a lateral of the Lovatos ditch and flows directly into the ditch. It is split by La Posta Road, and connected by a culvert running under the road.

11. Exhibit 3 identifies all subfile orders associated with the Lovatos Acequia. The subfile orders currently identify the Rio Pueblo de Taos as the only source of water for the Lovatos Acequia. The purpose of this Consent Order, therefore, it to amend the description of the source of water and POD in the subfile orders served by the Lovatos Acequia to include the Ojitos de la Posta (L-5) as an additional source of water, and describe the location of this spring area.

12. As depicted on Exhibit 1, the Lovatos ditch drains into the Pacheco ditch, such that any water from any source that the Lovatos Acequia lawfully diverts or otherwise lawfully receives for the benefit of its parciales, but that is not fully consumed by them, will naturally flow into the Pacheco ditch. Such water is referred to herein as "Surplus Water."

13. Surplus Water from the Lovatos Ditch, including Surplus Water originating from the Spring Ditch Spring (S-1), the Las Crucitas Arroyo, the Ojitos de Hatchery (L-1 through L-4), and the Ojitos de la Posta (L-5), is an additional source of water for the Pacheco Acequia. Exhibit 4 identifies all subfile orders associated with the Pacheco Acequia.

14. The Spring Ditch, the Lovatos Acequia, and the Pacheco Acequia agree, as a matter of historical custom dating back to Spanish sovereignty, that the Lovatos Acequia receives Surplus Water that naturally drains into the Lovatos ditch from the Spring ditch, including

Surplus Water originating from springs and the Las Crucitas Arroyo, and that the Pacheco Acequia receives Surplus Water that naturally drains into the Pacheco ditch from the Lovatos ditch, including Surplus Water originating from springs and the Las Crucitas Arroyo.

15. The Spring Ditch Spring, the Ojitos de Hatchery, and Ojitos de la Posta are not currently shown on the State's hydrographic survey. Therefore, Maps 14, 15, and 17 of the 1969 Hydrographic Survey for the Rio Pueblo de Taos Section ("Pueblo") should be revised as shown on Exhibit 1.

16. This Consent Order constitutes a "clerical correction" within the meaning of the June 7, 1995, Order on Procedures for Correcting and Amending Subfile Orders (No. 2337) ("Administrative Order").

17. There is no just reason to delay entry of this Consent Order as a final judgment, as between the State and the Acequias.

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDICATED that:

a. As described in this Consent Order and depicted on Exhibit 1, the Spring Ditch directly diverts water for the benefit of its parciantes from the Spring Ditch Spring (S-1), the Ojitos de Hatchery (L-1, L-2, L-3, and L-4), and the Las Crucitas Arroyo. The Spring Ditch Spring (S-1), the Ojitos de Hatchery (L-1, L-2, L-3, and L-4), and the Las Crucitas Arroyo, are the correct and only sources of water for the Spring Ditch. The description of the Spring Ditch's POD in the subfile orders in Exhibit 2 shall be amended by deleting the language describing the POD and replacing it with the following italicized language:

***Point of Diversion:***

***Location: (1) The Spring Ditch diverts water directly from the Spring Ditch Spring, identified as "S-1" on Map 17 of the Rio Pueblo Hydrographic Survey, situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X= 698,712, and Y = 1,967,515.***

***(2) The Spring Ditch, shown on Maps, 14, 15, and 17 of the Rio Pueblo Hydrographic Survey, diverts water from the Las Crucitas Arroyo at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 698,532 and Y = 1,967,478.***

***(3) The Spring Ditch also diverts water from the following springs and spring areas depicted on Exhibit 1 as "L-1" through "L-4"***

***a. L-1: situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 697,263 and Y = 1,967,220;***

***b. L-2: situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 697,174 and Y = 1,967,162;***

***c. L-3: situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 696,070 and Y = 1,967,166;***

***d. L-4: situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 696,007 and Y = 1,967,146.***

b. As described in this Consent Order and depicted on Exhibit 1, the Ojitos de la Posta (L-5), a spring area which flows directly into the Lovatos ditch, is an additional source of water for the Lovatos Acequia. The description of the Lovatos Acequia's POD in the subfile orders listed in Exhibit 3 shall be amended to include the Ojitos de la Posta (L-5) as an additional source of water as follows:

***Point of Diversion: The Acequia de los Lovatos diverts from the south bank of the Rio Pueblo de Taos in the Fernando de Taos Grant. The position of this diversion in the New Mexico State Plane Coordinate System, Central Zone, NAD 1927, is X = 695,780 and Y = 1,971,140. In addition, the Acequia de los Lovatos diverts water directly from the Ojitos de la Posta, identified as "L-5" on Map 17 of the Rio Pueblo Hydrographic Survey, situated at a point described in New Mexico State Plane Coordinate System, Central Zone, NAD 1927, as X = 695,090 and Y = 1,966,712.***

c. As described in this Consent Order and depicted on Exhibit 1, Surplus Water from the Spring ditch, including Surplus Water originating from the Spring Ditch Spring (S-1) the Las Crucitas Arroyo, and the Ojitos de Hatchery (L-1 through L-4), constitutes an additional source of water for the Lovatos Acequia.

d. As described in this Consent Order and depicted on Exhibit 1, Surplus Water from the Lovatos ditch, including Surplus Water originating from the Spring Ditch Spring (S-1), the Ojitos de Hatchery (L-1 through L-4), the Ojitos de la Posta (L-5), and the Las Crucitas Arroyo, constitutes an additional source of water for the Pacheco Acequia. Exhibit 4 identifies all subfile orders associated with the Pacheco Acequia.

e. As a matter of historical custom dating back to Spanish sovereignty, the Lovatos Acequia receives Surplus Water that naturally drains into the Lovatos ditch from the Spring ditch, including Surplus Water originating from springs and the Las Crucitas Arroyo, and the Pacheco Acequia receives Surplus Water that naturally drains into the Pacheco ditch from the Lovatos ditch, including Surplus Water originating from springs and the Las Crucitas Arroyo.

f. Maps 14, 15, and 17 of the State's Pueblo Hydrographic Survey shall be and are hereby amended in accordance with the attached Exhibit 1.

g. Pursuant to the Administrative Order, notice of the amendments made by this Consent Order shall be provided to all parties within the proposed partial final decree.

h. This Consent Order entirely resolves the Statements of Claim filed by the Spring Ditch, the Lovatos Acequia, and the Pacheco Acequia.

i. There is no just reason to delay entry of this Consent Order as a final judgment, as between the State, the Spring Ditch, the Lovatos Acequia, and the Pacheco Acequia.

j. This Consent Order shall constitute a final judgment as between the State, the Spring Ditch, the Lovatos Acequia and the Pacheco Acequia, including their successors, representatives, and assigns. All other parties with standing shall be provided an opportunity to object to this Consent Order prior to entry of a final decree.

Bruce D Black

**BRUCE D. BLACK**  
**UNITED STATES DISTRICT JUDGE**

Approved:

Vickie L. Gabin  
**VICKIE L. GABIN**  
**SPECIAL MASTER**

APPROVED AND ACCEPTED BY:

DEFENDANTS:

PACHECO COMMUNITY DITCH

By: J. L. H.  
Commissioner

Date: 12-17-09

By: Tony K. Scammon  
Commissioner

Date: 12/17/09

By: John P. Mueser  
Commissioner

Date: 12/17/09

ACEQUIA DE LOS LOVATOS

By: Mario Diaz  
Commissioner

Date: 12-15-09

By: Pedro Quintana  
Commissioner

Date: 12-15-09

By: Joseph McCutchan  
Commissioner

Date: 12-15-09

SPRING DITCH

By: Rose Jeanette  
Commissioner

Date: 12-4-09

By: Lisa Jeanette Mondragon  
Commissioner

Date: 12-07-09

By: \_\_\_\_\_  
Commissioner

Date: \_\_\_\_\_

Fred J. Waltz, Esq., attorney for the Pacheco Community Ditch, Acequia de los Lovatos and Spring Ditch

Fred J. Waltz  
(Signature)

Date: 12-17-09

STATE OF NEW MEXICO *ex rel.* STATE ENGINEER:

By: Brett K. Hartman  
Special Assistant Attorney General

Date: 1-6-10

**Exhibit 1****LEGEND**

- Existing POD
- \* Spring Claim
- Rio Pueblo De Taos
- Acequia De Los Lovatos -1715
- Pacheco Community Ditch - 1750
- Spring Ditch -1800
- Sanchez Ditch- 1800
- Drainage Ditch

**Scale**

1"=800'

800 400 0 Feet

**STATE OF NEW MEXICO**

Office of the State Engineer

John R. D'Antonio Jr., P.E., State Engineer

Rio Pueblo de Taos & Rio Hondo Hydrographic Survey  
**RIO PUEBLO DE TAOS SECTION**

**Maps 14,15,&17****Composite Map**

Revised July 6, 2009



Exhibit 2  
Spring Ditch

<b>Subfile Number</b>	<b>Date Filed</b>	<b>Docket Number</b>
17.73	8/10/1973	418.028
17.73A	7/18/1975	778.106
17.74	1/30/1974	449.018
17.75	4/26/1972	335.062
17.76	6/14/1971	260.048
17.77	1/30/1974	449.019
17.78	1/30/1974	449.020
17.79	6/14/1971	260.046
17.80	6/14/1971	260.044
17.81	6/14/1971	260.048
17.82	6/14/1971	260.042
17.83	6/14/1971	260.040
17.84	4/26/1972	335.063
17.85	4/26/1972	335.064
17.86	4/26/1972	335.063

Exhibit 3  
Acequia de Los Lovatos

<b>Subfile Number</b>	<b>Date Filed</b>	<b>Docket Number</b>
14.105A	8/5/1974	552.062
15.20	2/14/1974	460.011
15.20A	11/5/1970	224.056
15.20B	6/6/1972	345.038
15.21	6/6/1973	410.006
15.21A	2/14/1974	460.011
15.21B	8/5/1974	552.042
15.23	8/5/1974	552.048
15.23A	7/18/1975	778.054
15.24	7/18/1975	778.052
15.25	2/14/1974	460.012
15.25A	2/14/1974	460.013
15.25B	11/5/1970	224.054
15.26	6/6/1972	345.041
15.27	6/6/1972	345.042
15.28	6/6/1972	345.043
15.29	9/2/1970	214.216
15.30	9/2/1970	214.218
15.31	11/5/1970	224.044
15.31A	8/5/1974	552.050
15.32	6/6/1972	345.044
15.32A	7/18/1975	778.050
15.32B	7/18/1975	778.048
15.32C	7/18/1975	778.046
15.32D	10/22/1976	937.004
15.32E	4/19/1976	895.002
15.33	2/14/1974	460.014
15.33A	6/6/1972	345.045
15.33B	8/5/1974	552.040
15.33C	8/5/1974	552.046
15.34	9/2/1970	214.220
15.34A	8/5/1974	552.058
15.35	9/2/1970	214.222
15.36	9/2/1970	214.224
15.37	6/6/1972	345.045
15.38	2/14/1974	460.015
15.38A	8/5/1974	552.064
15.39	11/5/1970	224.042
15.41	6/6/1972	345.046
15.42	6/6/1972	345.047
15.43	6/6/1972	345.048
15.43A	8/5/1974	552.052
15.43B	7/18/1975	778.044
15.44	6/6/1972	345.049
15.45	5/5/1975	752.012

<b>Subfile Number</b>	<b>Date Filed</b>	<b>Docket Number</b>
15.46	9/13/1973	425.060
15.47	6/6/1972	345.051
15.47A	9/30/1974	584.006
15.48	9/2/1970	214.226
15.49	6/6/1972	345.052
15.50	6/6/1972	345.053
15.51	6/6/1972	345.054
15.52	6/6/1972	345.055
15.53	8/5/1974	552.054
15.54	6/6/1972	345.042
15.55	9/2/1970	214.236
15.56	9/2/1970	214.228
15.57	11/5/1970	224.052
15.57A	6/6/1972	345.057
15.57B	6/6/1972	345.058
17.19	9/2/1970	214.222
17.20	7/18/1975	778.056
17.20A	9/30/1974	584.008
17.20B	9/30/1974	584.010
17.21	6/6/1972	345.059
17.22	9/2/1970	214.230
17.23	6/6/1972	345.060
17.23A	2/1/1974	450.012
17.23B	6/6/1972	345.061
17.23C	6/6/1972	345.062
17.24	11/9/1973	435.011
17.25	2/14/1974	460.016
17.26	11/5/1970	224.050
17.27	6/6/1972	345.057
17.28	6/6/1973	410.004
17.29	6/6/1972	345.063
17.30	6/6/1972	345.064
17.31	6/6/1972	345.065
17.32	9/2/1970	214.232
17.33	9/2/1970	214.234
17.34	11/5/1970	224.048
17.34A	2/14/1974	460.017
17.35	6/6/1972	345.066
17.36	11/5/1970	224.046
17.37	11/5/1970	224.044
17.38	6/6/1972	345.042
17.39	11/5/1970	224.044
17.40	6/6/1972	345.042
17.41	6/6/1972	345.064

Exhibit 4  
Pacheco Community Ditch

<b>Subfile Number</b>	<b>Date Filed</b>	<b>Docket Number</b>
15.60	4/26/1972	335.019
15.61	5/10/1971	250.014
15.62	1/30/1974	449.025
15.62A	4/26/1972	335.020
15.63	5/10/1971	250.026
16.23A	5/10/1971	250.018
17.50	5/10/1971	250.020
17.50A	5/10/1971	250.022
17.50B	9/17/1975	810.024
17.51	1/30/1974	449.027
17.51A	1/30/1974	449.026
17.51B	9/17/1975	810.022
17.52	5/10/1971	250.012
17.52A	11/15/1972	383.002
17.52B	1/30/1974	449.028
17.53	4/26/1972	335.021
17.54	4/26/1972	335.019
17.55	4/26/1972	335.022
17.56	8/6/1975	778A.016
17.57	8/6/1975	778A.014
17.57A	8/6/1975	778A.012
17.57B	8/6/1975	778A.010
17.58	5/10/1971	250.012
17.58A	5/10/1971	250.024
17.58B	5/10/1971	250.016
17.59	12/19/1973	442.033
17.60	4/26/1972	335.024
17.61	11/9/1973	435.013
17.64A	7/18/1975	778.026
17.70A	7/18/1975	778.024